IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR. JUSTICE K.C. BHANU

WRIT PETITION NO: 3665 of 2005

Between:

M/s. Mishra Dhatu Nigam Ltd., (A Government of India enterprise) PO Kanchanbagh, Hyderabad-500 058 rep by General Manager (HR) Shri N.V. Ram Anand.

PETITIONER

AND

1 Shri Nandji Singh S/o Arjun Singh, Plot no.6 Opp Native Church, Lenin Nagar Post Office, Vaishali Nagar, Saroornagar Mandal, RR District Hyderabad.
2 The Presiding Officer, Labour Court-I Hyderabad.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of writ of Mandamus, declaring the order passed by the 2nd respondent in IA No. 276 of 2004 in I.D. No. 22 of 2003 dt 19-1-05 by allowing additional documents as evidence and receiving the documents after holding domestic enquiry as valid is bad in law and contrary to the provisions of Section 11 and 11A of the Industrial Disputes Act and the order is illegal, consequently direct the Second respondent to hear the ID No. 22 of 2003 based on the domestic enquiry file, claim and counter filed by the petitioner and second respondent i.e. Material on record and pass such other order or orders as deem fit and proper.

Counsel for the Petitioner: MS. G.SUDHA

Counsel for the 1st respondent: Mr. D.V.P.B. Vijayakumar.

Counsel for the 2nd respondent: GP FOR LABOUR

The Court made the following:

ORDER:

Challenging the order passed by the 2nd respondent in I.A.No.276 of 2004 in I.D.No.22 of 2003 dated 19-01-2005 allowing the additional documents as evidence and receiving the documents after holding the domestic enquiry as valid, the present writ petition is filed.

By virtue of the said orders, the Tribunal allowed the petition to receive certain documents and mark them as exhibits at the time of final arguments subject to proof and relevancy, challenging which, the present writ petition is filed.

The learned counsel appearing for the petitioner vehemently contended that once the labour Court found that domestic inquiry is held to be proper, then the question of leading evidence does not arise. Therefore, the Tribunal committed serious error of law.

On the other hand, the learned counsel for the 2nd respondent contended that the petitioner will not lead any evidence, but only the documents are to be marked subject to proof and relevancy at the time of arguments and the petitioner cannot be allowed to challenge the same by approaching this Court for which he relied on the decision reported in D.P. MAHESHWARI V. DELHI ADMN. AND OTHERS. ()

The question is as to whether the domestic inquiry is held to be valid and whether the workman is permitted to lead any evidence regarding the same issue.

A Division Bench of this Court considered the same in a decision reported in BANK OF

BARODA v. G. SRIRAM AND ANOTHER. () wherein it is held that once domestic enquiry is held to be valid and regular by virtue of the proviso to Section 11-A of the Act, the Industrial Court has to exercise its discretion under that Section exclusively and only on the basis of the evidence available on record. That is the clear intentment and purport of the provisions of Section 11-A of the Act.

In this case, the domestic inquiry is held to be valid and proper. Therefore, the question of leading any evidence whether it may be by way of oral or documentary evidence regarding the same issue is not sustainable. Without adverting to the issue of this case, the Tribunal without recording any reasons whatsoever, simply allowed the petition. Therefore, the question of leading evidence does not arise.

The learned counsel for the respondents placed reliance on the decision reported 1st referred supra in D.P. MAHESHWARI V. DELHI ADMN. AND OTHERS, wherein it is held that neither the jurisdiction of the High Court under Article 226 of the Constitution nor the jurisdiction of the Supreme Court under Article 136 may be allowed to be exploited by those who can well afford to wait to the detriment of those who can ill afford to wait by dragging the latter from Court to Court for adjudication of peripheral issues, avoiding decision on issues more vital to them. There is no dispute about the proposition of law laid down by the apex Court. Now the dispute is whether the Tribunal exercised its jurisdiction conferred on to it under proviso to Section 11-A of the Industrial Disputes Act, 1947. The law is well settled that once the domestic inquiry is found to be valid, the question of leading any evidence does not arise. Therefore, allowing the interlocutory application filed by the 1st respondent herein is nothing but exercising the jurisdiction of the Courts, contrary to the provisions of Section 11-A.

Hence, the impugned order is set aside. The writ petition is allowed.

Since the case is pending, a direction is given to the lower Court to dispose of the case within a period of four months from the date of the receipt of a copy of this order.

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Justice K.C.BHANU

Date : 14-6-2005

Dvs

Copies to:

1. The Presiding Officer, Labour Court-I Hyderabad.

2. Two CCs to the GP for Labour,High Court Buildings,

Hyderabad.(OUT)

3. Two CD copies.

HONOURABLE SRI JUSTICE K.C.BHANU

W.P.No.3665 OF 2005

14th June, 2005